

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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THE ARK, INC. and AEGIS COUNCIL,
LLC,

Petitioners,

v.
INTERNAL REVENUE SERVICE,

Respondent.

Case No. 3:12-cv-00269-MMD-WGC

ORDER

(Res.'s Motion to Dismiss – dkt. no. 5)

Before the Court is Respondent United States' (improperly named as the Internal Revenue Service) Motion to Dismiss. (Dkt. no. 5.) Petitioners do not oppose the Motion.

On May 21, 2012, Petitioners The Ark, Inc. and Aegis Council, LLC instituted this action in the wake of Internal Revenue Service ("IRS") summonses to Petitioners in connection with an investigation of them. (See dkt. no. 1.) Petitioners sought, through this action, a court determination into the nature and purpose of the IRS investigation, as well as a Court order quashing the summonses.

In response, the United States filed the instant Motion to Dismiss seeking dismissal under Fed. R. Civ. P. 12(b)(1). (Dkt. no. 5.) The United States correctly argues that Petitioners have no standing to quash a summons issued to them personally, rather than a third party. "If the summons is issued to the taxpayer whose potential tax liability is being investigated, that taxpayer may challenge the summons before the IRS hearing officer and may, *if the IRS seeks enforcement of the summons in the district court*, challenge the summons in district court." *United States v. Ritchie*, 15

1 F.3d 592, 597 (6th Cir. 1994) (emphasis added). In light of this authority, Petitioners
2 reluctantly consent to the granting of the motion. (Dkt. no. 7.)

3 Good cause appearing, IT IS THEREFORE ORDERED that the United States'
4 Motion to Dismiss (dkt. no. 5) is GRANTED. Petitioners' Petition for Order Quashing
5 Summons (dkt. no. 1) is DENIED. The Clerk of Court shall close this case.

6 DATED THIS 25th day of January 2013.
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9 MIRANDA M. DU
10 UNITED STATES DISTRICT JUDGE
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